

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
October 16, 2001

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:01 p.m., Tuesday, October 16, 2001, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and H. R. Ashe.

Walter C. Zaremba was absent.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Reverend Daniel S. Reagan, Sr., Seaford Baptist Church, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. John Mazur, Assistant Resident Engineer, Virginia Department of Transportation (VDOT), appeared to discuss highway matters of interest to the Board of Supervisors. He had no new information to present but reported the repaving on Route 17 was continuing.

Mr. Wiggins asked VDOT to check out the Hornsbyville Road area near the railroad tracks. He stated the road shoulders near the railroad tracks were gradually being eaten away by erosion, and it had become dangerous.

Mrs. Noll thanked VDOT for the work being done on Route 17 and expressed her appreciation for the evening work to help with traffic flow.

Mr. Ashe stated he had received many complaints about the rough asphalt on Greenland Drive, and he asked that the area be looked at. He also requested that VDOT check on the drainage in the Cary's Chapel Road area.

Chairman Burgett asked about the paving schedule and when it might be available.

Mr. Mazur replied he had not seen the schedule, but it would be available soon.

PRESENTATIONS

EMPLOYEE RECOGNITION PROGRAM

Chairman Burgett congratulated the following employees for their years of service with the County and presented them with their respective certificates and service pins.

Harold Shepard, Jr.	Fire & Life Safety	25 Years
James R. Dishner	Fire & Life Safety	25 Years
Deborah A. Mirick	Financial & Management Services	20 Years

ZWEIBRÜCKEN DELEGATION

Chairman Burgett welcomed the citizens of the City of Zweibrücken, Germany, York County's sister city. He introduced members of the Zweibrücken Delegation and presented each of them with a certificate of honorary citizenship and a key to the County. He then introduced Dr. Lambert, Lord Mayor of Zweibrücken.

Dr. Lambert thanked Chairman Burgett and the Board for its recognition and presented to the Board a copper sculpture of the Coat of Arms of the City of Zweibrücken. He also presented the Board with a replica of a china cup and saucer dating back to the 1770's.

YORK COUNTY FINANCIAL STATEMENT

Mr. Chris Toney, a partner with the firm of Goodman and Company, appeared to make a presentation on the York County Financial Statement. He introduced Carol White, Senior Manager, who was the on-site supervisor for the work that was conducted on the financial statements. He indicated the financial statements present fairly the financial position of the County and the results of its operation in accordance with generally accepted accounting principles. He commended Mary Ann Kirish and her staff in their completion of financial documents.

RECYCLING CONTRACT

Ms. Laurie Halperin, Division of Waste Management Services, gave a report on the recycling contract with the Virginia Peninsulas Public Service Authority (VPPSA), which will expire on October 31, 2001. She introduced a representative from Tidewater Fiber, the new provider for curbside and drop-off services, which will begin November 1, 2001. She displayed one of the new recycling bins and explained the rates for the service.

CITIZENS COMMENT PERIOD

No one appeared before the Board to speak at this time.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett stated the items for the Legislative Program would be prioritized and given to the Board for its consideration in the near future. He reported on the historic building renovation tax credits in conjunction with moving the post office building. He elaborated on the possible tax credits indicating how they may benefit the County in recouping some of the moving and renovation costs. He indicated he had contacted outside counsel specializing in these kinds of

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benefits and informed the Board that an attorney from the firm of Kutak Rock would be attending the next work session to discuss the subject tax credits.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds stated the topics for the work session on October 23 would include redistricting and possible tax credits for the Yorktown Revitalization Projects. He advised that the bond rating agencies had upgraded the County's credit rating from an "A" status to an "AA" status. He reported that the County would be airing a video depicting the response to incidents involving weapons of mass destruction.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll commended Chief Kopczynski and his staff for an excellent report on the County's medical response on local terrorist threats. She noted that a video which had been prepared by the Hampton Roads Planning District Commission would answer many questions about responses to terrorists attacks. She explained that 16 jurisdictions worked together on technical committees to develop a regional medical plan, and the video would be available at the libraries and would air on Channel 46.

Mr. Ashe reported on attending a committee meeting on tax reform. He stated he was the area representative on the committee, and he asked that he be contacted for any comments or suggestions. He stated he was appointed to another four-year term on the Department of Housing and Community Development Board. He reported on attending the Virginia Housing Development Authority (VHDA) board meeting on affordable housing.

Meeting Recessed. At 7:54 p.m. Chairman Burgett declared a short recess.

Meeting Reconvened. At 8:00 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

AGREEMENT WITH CHILD DEVELOPMENT RESOURCES, INC.

Mrs. Anne Smith, Director of Community Services, made a presentation on proposed Resolution R01-169 to authorize the execution of a lease agreement with Child Development Resources, Inc., for office space in the Griffin-Yeates Center Building located on Government Road.

Chairman Burgett called to order a public hearing on the proposed Resolution R01-169 that was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR
TO EXECUTE A LEASE AGREEMENT WITH CHILD DEVELOPMENT
RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR
OFFICE SPACE IN THE GRIFFIN-YEATES CENTER BUILDING LO-
CATED ON GOVERNMENT ROAD

There being no one present who wished to speak regarding the subject resolution, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R01-169 that reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT WITH CHILD DEVELOPMENT RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR OFFICE SPACE IN THE GRIFFIN-YEATES CENTER BUILDING LOCATED ON GOVERNMENT ROAD

WHEREAS, Child Development Resources, Inc., a nonprofit Virginia Corporation, operates the First Steps program whose purpose is to provide an early childhood educational experience and positive learning opportunities on behalf of economically disadvantaged and other qualified County citizens and which is located in the Griffin-Yeates Center on Government Road; and

WHEREAS, Child Development Resources, Inc., has been implementing a federal grant that provides training for professionals who work with young children and has asked to rent an office with approximately 200 square feet also located within the Griffin-Yeates Center on Government Road to serve as a base of operations for personnel involved in the implementation of that grant; and

WHEREAS, the County desires to make available approximately 200 square feet of office space between Room 6 and Room 10 within the Griffin-Yeates Center located at 1490 Government Road, which is a building owned by the County of York, by the execution of a Lease Agreement for a term of one year with Child Development Resources, Inc.; and

WHEREAS, charges for that space shall be at a rate of \$9.00 per square foot per year with the proceeds from such rental to be dedicated to the County Children's Food Services program; and

WHEREAS, a public hearing on the proposed Lease Agreement, as required under the Code of Virginia, has been properly advertised and conducted on October 16, 2001;

NOW, THEREFORE BE IT RESOLVED by the York County Board of Supervisors this the 16th day of October, 2001, that the County Administrator be, and he is hereby, authorized to execute a Lease Agreement with Child Development Resources, Inc. for approximately two hundred (200) square feet of office space between Room 6 and Room 10 within the Griffin-Yeates Center, for a term commencing November 1, 2001 and ending October 31, 2002, and in consideration of the sum of nine dollars (\$9.00) per square foot per year.

BE IT FURTHER RESOLVED that proceeds from such rental shall be dedicated to the County Children's Food Service program.

On roll call the vote was:

Yea: (4) Noll, Wiggins, Ashe, Burgett
Nay: (0)

TAX EXEMPTION – CARITAS OF YORKTOWN

Mr. Barnett made a presentation on proposed Resolution R01-187 to support the request of Caritas of Yorktown to become exempt from property taxation.

Chairman Burgett then called to order a public hearing on proposed Resolution R01-187 that was duly advertised as required by law and is entitled:

A RESOLUTION SUPPORTING THE REQUEST OF CARITAS OF
YORKTOWN, VIRGINIA, A VIRGINIA NON-STOCK CORPORATION,
TO BECOME EXEMPT FROM PROPERTY TAXATION

Mr. Nick Barba, 500 Piney Point Road, president of Caritas, appeared to answer any questions the Board might have, and he explained some of the reasons for the Caritas' request to become tax exempt.

Mr. Brad Berrane, 215 Castellow Court, President of the York County Business Association, also appeared to answer any questions. He explained that the Caritas building helped fulfill functions that were beneficial to the community.

There being no one else present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mr. Wiggins noted that the Caritas director and officers do not receive any compensation, and they work very hard for the Center. He stated he felt the Board of Supervisors should help Caritas in every way it could. He then moved the adoption of proposed Resolution R01-187 which reads:

A RESOLUTION SUPPORTING THE REQUEST OF CARITAS OF
YORKTOWN, VIRGINIA, A VIRGINIA NON-STOCK CORPORATION,
TO BECOME EXEMPT FROM PROPERTY TAXATION

WHEREAS, Caritas of Yorktown, Virginia ("Caritas") has forwarded to the Board a request for support for a real and personal property tax exemption which Caritas desires to seek from the Virginia General Assembly; and

WHEREAS, § 30-19.04 of the Code of Virginia addresses such exemptions and subsection B of § 30-19.04 requires that the local governing body advertise and conduct a public hearing and consider a series of questions prior to adopting a resolution supporting the requested exemption; and

WHEREAS, the required public hearing has been advertised and conducted and the Board of Supervisors has duly examined and considered the questions contained in subsection B of § 30-19.04 of the Code of Virginia;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of October, 2001, that this resolution be, and is hereby, adopted in support of the request of Caritas to become exempt from property taxation.

BE IT FURTHER RESOLVED that it is recommended that the property of Caritas be classified as property used for charitable and benevolent purposes in accordance with those tax exemption categories set out in Code of Virginia § 58.1-3650.

On roll call the vote was:

Yea:	(3)	Wiggins, Ashe, Burgett
Nay:	(1)	Noll

APPLICATION NO. ZT-60-01, YORK COUNTY PLANNING COMMISSION

Mr. J. Mark Carter, Planning and Zoning Manager, made a presentation on Application No. ZT-60-01 to amend the York County Code to make a series of clarifying revisions to various sections of the Zoning Ordinance. He stated the Planning Commission recommended approval of the Ordinance and staff recommended adoption of the application through adoption of proposed Ordinance No. 01-20.

Mrs. Noll asked for an explanation of the changes to the conditional zoning section.

Mr. Carter explained that the proposal related to conditional zoning was to insert language recently added to the State Code that defines the types of proffers that are not allowed.

Mrs. Noll mentioned the political signs throughout the County and stated the citizens wanted them removed. She noted her concern over the proposed time limitation for removal being deleted from the ordinance.

Mr. Barnett elaborated on two federal court cases involving duration limits on political signs. He explained that the argument centered around time limits on political signs and whether or not they were a restriction of free speech.

Ms. Noll requested an opinion from the Attorney General on the matter.

Chairman Burgett pointed out that the County had not been challenged on the issue and this was a pre-emptive measure.

Discussion followed on the time limitations for political signage; and, by consensus, the Board decided that Section 24.1-707(g) should not be changed.

Mr. Ashe questioned the six-foot fence height proposed in the ordinance.

Mr. Carter stated the proposal was to provide an opportunity for fences of up to six feet to be erected in what is defined as the front yard but actually functions as a rear yard; this would apply to those lots that have multiple road frontages. The idea would be to give individuals who own the lots the opportunity to erect a six-foot fence to meet privacy or screening needs.

Mr. Ashe asked if an eight-foot fence could be erected if there was justification.

Mr. Carter explained the ordinance would not allow for an eight-foot fence as it was written.

Mr. Ashe felt that limiting the height to six feet would be a mistake since the Dare Marina public hearings had indicated a need for higher fences for screening.

Discussion ensued on fencing policies.

Chairman Burgett stated the Zoning Administrator could use his discretion in each case.

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Mr. Carter advised that as the policy was written now, it required Zoning Administrator verification, and raising the height limit to eight feet would allow additional flexibility.

By consensus, the Board decided to modify the proposed language to allow eight-foot high fences.

Mr. Ashe inquired about the proposed full-cutoff lighting requirements and how it would apply in a residential situation, citing an example along the waterfront.

Mr. Carter stated the ordinance would address that type of situation if the lighting intensity exceeded 3,000 lumens.

Mr. Wiggins commended Mr. Carter for his work on the ordinance which would clear up some problems later on.

Mr. Ashe voiced his concerns regarding the size of political signs and asked staff look further into that.

Mr. Carter mentioned Mrs. Noll's concern regarding the definition of nightclubs and her suggestion that it be changed slightly to mention recorded music. He then suggested revised wording, which the Board accepted.

Chairman Burgett then called to order a public hearing on proposed Application No. ZT-60-01 that was duly advertised as required by law. Proposed Ordinance No. 01-20 is entitled:

AN ORDINANCE TO APPROVE A SERIES OF TECHNICAL AMENDMENTS TO CHAPTER 24.1, ZONING, YORK COUNTY CODE

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 01-20(R), to incorporate the changes regarding political signs, fence heights, and the definition of nightclubs, that reads:

AN ORDINANCE TO APPROVE A SERIES OF TECHNICAL AMENDMENTS TO CHAPTER 24.1, ZONING, YORK COUNTY CODE

WHEREAS, the York County Board of Supervisors adopted the County's Zoning Ordinance on June 25, 1995; and

WHEREAS, certain omissions, unintentional conflicts and suggested minor adjustments were brought to the attention of the Planning Commission; and

WHEREAS, the Planning Commission thereupon sponsored Application No. ZT-60-01 containing a series of technical correction amendments to the Zoning Ordinance; and

WHEREAS, the Planning Commission has recommended approval of this application; and

WHEREAS, the Board has carefully considered the recommendation of the Commission and has conducted a duly advertised public hearing in accordance with applicable procedure;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of October, 2001, that Application No. ZT-60-01 be, and it is hereby, approved to revise Chapter 24.1, Zoning, York County Code, for the purpose of making the following technical corrections:

ARTICLE I. IN GENERAL

Sec. 24.1-104. Definitions.

Dwelling unit. A single unit of one or more rooms providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation.

< Dwelling, accessory unit/apartment. A separate and complete housekeeping unit which provides complete and independent living, sleeping, sanitation, and cooking facilities. Such unit may be contained within or outside of a primary residence but is clearly secondary to a primary single-family dwelling located on the same lot. When in a detached structure, the presence of a living area and a bathroom with sink, toilet and tub or shower shall be considered to constitute an accessory apartment. When a part of the principal structure on the property, the presence of an independent entrance, a bathroom with sink, toilet and tub/shower, and physical separation (by walls or floors) from the principal residence shall be deemed to constitute an accessory apartment.

Full cut-off luminaire. An outdoor lighting fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane defined by the fixture.

Nightclub. An establishment that offers alcoholic beverages at a bar or tables and which may also include a dance floor or periodic live or recorded music or entertainment and which is open for business after 11:00 p.m.

Surface mine. Any operation involving the breaking or disturbing of the surface soil or rock, where the primary purpose of the operation is to extract or remove sand, soil, gravel, or other natural materials from the earth and to transport the material, or any portion thereof, off the site of the surface mine operation. Specifically exempt from this definition are the following:

< Any excavation for roads, utilities, buildings, drainage structures, channels or ditches, or ponds, lakes or other water bodies or features, whether intended for drainage, recreational or aesthetic purposes, when such excavations are determined by the zoning administrator to be incidental to and in accordance with the approved development plans or site plans for a residential, commercial, industrial or other development activity, even though the excavated material, or a portion thereof, may be hauled off-site and sold. In no case shall any exempted pond or lake have a water depth exceeding thirty-three feet (33') [10m].

- < Any excavation for the purpose of conducting a bona fide agricultural operation, including but not limited to excavations to improve drainage, provide watering facilities for livestock or create a holding lagoon for animal waste, but only so long as such excavation is devoted solely to such use.
- < Any trench, ditch or hole for utility lines, drainage pipe or other similar public works facilities or projects.
- < Excavations for the installation of underground storage tanks, if to be backfilled to natural grade.
- < Excavations for the purpose of enlarging or improving an existing structure.
- < Any excavation for a pond or lake less than one (1) acre in size when, in the opinion of the zoning administrator, the sole purpose of such pond or lake is the recreational or aesthetic use and benefit of the occupants or intended occupants of the property and the objectives of this chapter would not be served by requiring a use permit. In no case shall any exempted pond or lake have a water depth exceeding thirty-three feet (33')[10m].
- < Any excavation found by resolution of the board of supervisors to be operated, or proposed to be operated, directly or indirectly by or for the exclusive benefit of the Commonwealth of Virginia for the purpose of facilitating public roadway improvements, provided that such operation will not result in the creation of an excavated pit on the subject property, and provided further that the board is assured that such surface mining operation will be conducted in accordance with appropriate erosion and sediment control practices.

Notwithstanding the foregoing, in any of the above situations where the Zoning Administrator determines that the primary purpose or motivation for the excavation is to sell the excavated material as a commercial undertaking, the excavation shall be considered a surface mine and shall be subject to special use permit review.

Sec. 24.1-113. Amendments.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the board may by ordinance, amend, supplement, or change the regulations, district boundaries, or classifications of property established by this chapter.

(c) Procedures for amendment.

- (1) Applications for amendment of the zoning ordinance shall be submitted to the zoning administrator and upon completion of all filing requirements, including payment of required fees, shall be deemed received by the board and referred to the commission for its review and recommendation as provided by section 15.2-2285, Code of Virginia.
- (2) The commission, after public notice in accordance with section 15.2-2204, Code of Virginia shall hold at least one public hearing on such petition and as a re-

sult thereof shall transmit a recommendation to the board. Failure of the commission to report within one hundred (100) days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the board of supervisors, shall be deemed approval, unless such proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of such time period. In the event of such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

- (3) In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by section 15.2-2204, Code of Virginia. Such ordinances shall be enacted in the same manner as all other ordinances.
- (4) Upon receipt of the recommendation of the commission, the board, after public notice in accordance with section 15.2-2204, Code of Virginia shall hold at least one public hearing on such petition for amendment, and as a result thereof shall make such changes to the chapter as it deems appropriate, provided further that the board shall act upon and make a decision upon each petition within one (1) year of the date such petition was filed.

Sec. 24.1-114. Conditional zoning.

(b) Proffer of conditions.

- (1) The owner or owners of property for which an application is being made for an amendment to the zoning map may, as part of the application, voluntarily proffer, in writing, reasonable conditions which shall be in addition to the regulations of the zoning district classification sought by the application.
- (2) Conditions so proffered may be made prior to the public hearing before the commission. Alternatively, or in addition, in consideration of comments expressed during the commission deliberations on an application, the property owner(s) may, prior to the final public hearing conducted by the board, choose to proffer original conditions or revised conditions.
- (3) The board as part of an amendment to the zoning map, may accept such reasonable conditions in addition to the regulations provided by this chapter for the zoning district to which the amendment is requested provided that:
 - a. the rezoning itself gives rise to the need for the conditions;
 - b. such conditions have a reasonable relation to the rezoning; and
 - c. all such conditions are in conformity with the adopted comprehensive plan; and

- d. if proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (sec. 55-508 et seq) of Title 55, Code of Virginia, which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in section 15.2-2241, Code of Virginia; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.

Sec. 24.1-115. Special use permits.

(c) Procedures applicable to permits.

- (1) Unless otherwise specified by the conditions of the permit, failure to establish the special use authorized by the permit within two (2) years from the date of approval by the board shall cause the permit to terminate automatically. In the case of uses involving the construction of new buildings or other structures, the use shall be deemed "established" if all necessary foundation work has been completed within the two-year period and construction work is continuously and diligently pursued thereafter under a valid building permit. In the case of uses involving occupancy of land or an existing building, the use shall be deemed "established" only if the land or buildings have been occupied and the proposed activity conducted within the two-year period.
- (2) Unless otherwise specified in the conditions of a permit, the initial term of each special use permit shall be for one (1) year from the date of approval. Upon compliance with those conditions and restrictions imposed by the board and all relevant county ordinances, the special use permit shall, without application, be renewed automatically for additional successive one (1) year terms. However, a special use permit shall not be so renewed and shall expire at the end of the term or current renewal thereof if notice of noncompliance with any material condition or restriction is mailed by certified mail to the permittee, at the address shown on the application for the permit or any new address of which the zoning administrator subsequently receives written notice, more than thirty (30) days before the end of the term or the renewal thereof then in effect and such noncompliance is not corrected within thirty (30) days to the satisfaction of the zoning administrator.

The provisions of this section are cumulative with the power of injunction and other remedies afforded by law to the county and, further, shall not be so interpreted as to vest in any applicant any rights inconsistent or in conflict with the

power of the county to rezone the subject property or to exercise any other power provided by law.

- (3) Once a special use permit is granted, such use may be enlarged, extended, increased in intensity or relocated only in accordance with the provisions of this section unless the board, in approving the initial permit, has specifically established alternative procedures for consideration of future expansion or enlargement. If, however, the specially permitted use is no longer a use permitted in the zoning district in which located, the provisions of article VIII relative to expansion of nonconforming uses shall control any proposed enlargement of the use. If the use that is the subject of the special use permit becomes a use permitted as a matter-of-right through subsequent amendment of this chapter, the special use permit conditions shall be voided but only to the extent they are more restrictive than those conditions applicable generally to such by-right use.
- (4) Uses in a district for which a special use permit is required, which were legally existing without such a permit at the time of adoption of this chapter or an amendment thereto which required such a special use permit, shall not be deemed nonconforming uses, but shall, without further action, be deemed conforming special uses so long as they continue in existence. Such special uses shall be subject to the provisions of subsection (d) below with respect to any enlargement, extension, increase in intensity or relocation.
- (5) Where any special use is discontinued for any reason for a continuous period of two (2) years or more, the special use permit shall automatically terminate without notice. A use shall be deemed to have been "discontinued" when the use shall have ceased for any reason, regardless of the intent of the owner or occupier of the property to reinstitute the use at some later date. The approval of a new special use permit shall be required prior to any subsequent reinstatement of the use.

ARTICLE II. GENERAL REGULATIONS

DIVISION 5. TRANSPORTATION SYSTEMS ANALYSIS, MANAGEMENT AND SAFETY

Sec. 24.1-252. Access management.

- (a) Access to a use shall be considered to be part of the use and shall require an equivalent or greater intensity zoning classification, unless over a publicly owned and maintained right-of-way. Any entrance or driveway from an existing or proposed non-residential use to a street created as part of a residential subdivision, classified as a minor collector or lower order and located within a residential zoning district shall be authorized only upon the issuance of a special use permit by the board. Prior to considering requests for such special exceptions, the board shall receive a recommendation from the commission and shall conduct at least one (1) public hearing advertised in accordance with section 15.2-2204, Code of Virginia, except that all property owners along the resi-

dential street proposed to be accessed shall be mailed notice of the proposal and the times and places when public comment may be offered. The commission shall also conduct a duly advertised public hearing before transmitting a recommendation to the board. This provision shall not apply to home occupations established and operated in accordance with this chapter, nor shall it apply to community recreation facilities constructed to serve the residential community in which located, nor shall it apply to pump stations and similar utility appurtenances.

DIVISION 6. SITE DESIGN STANDARDS

Sec. 24.1-260. General site design standards.

- (a) No more land shall be disturbed than is reasonably necessary to provide for the desired use or development. All site plans shall clearly delineate land areas to be disturbed and those which shall remain undisturbed.
- (b) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the proposed use and development.
- (c) Best management practices shall be applied to all land disturbing activities regulated by this chapter.
- (d) Land development proposals shall be designed to minimize impervious cover consistent with the particular use proposed.
- (e) New construction on existing slopes in excess of thirty percent (30%) shall be prohibited unless the zoning administrator, after reviewing a detailed soils, geology, and hydrology survey prepared in accordance with acceptable engineering standards and submitted by the applicant, determines that such construction can be accommodated without creating or exacerbating erosion, seepage, or nutrient transport problems. Such survey shall include cross-sections of existing and proposed slopes and detailed plans of drainage devices. Grading such slopes to less than thirty percent (30%) shall also be prohibited unless the zoning administrator determines that such grading is necessary to the overall development; however, in no case shall such grading be used to permit new construction which otherwise would have been prohibited.
- (f) Except as exempted below, all outdoor lighting in excess of 3,000 initial lumens associated with land use and development proposals, whether new uses or changes and modifications in existing uses, shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent rights-of-way and properties and shall incorporate the use of "full cut-off" luminaires/fixtures. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixture and luminaires for such uses. The following outdoor lighting applications shall be exempt from these requirements:
 - (1) Construction, agricultural, emergency or holiday decorative lighting of a temporary nature.
 - (2) Lighting of the United States of America, Commonwealth of Virginia, or York County flags and other non-commercial flags.

- (3) Security lighting controlled by sensors which provide illumination for fifteen (15) minutes or less.
- (4) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the effective date of this section.
- (5) The replacement of a failed or damaged luminaire which is one of a matching group serving a common function.

In addition to the above-noted exemptions, the Zoning Administrator may approve a modification of the full cut-off luminaire requirements in either of the following circumstances:

- Upon finding that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree; or
- Upon finding that the outdoor luminaire or system of outdoor luminaires required for a baseball, softball, football, soccer or other athletic field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use.

DIVISION 7. ACCESSORY USES

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion:

- (h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:
 - (1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;
 - (2) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot;
 - (3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

- (j) Fences or walls in single-family residential districts provided that:
- (1) fences or walls located in rear yards shall not exceed eight feet (8') [2.5m] in height;
 - (2) fences or walls located in side yards shall not exceed six feet (6') [2m] in height;
 - (3) fences or walls located in front yards shall not exceed four feet (4') [1.5m] in height;
 - (4) fences or walls located on corner lots shall be subject to the visibility standards established in section 24.1-220;
 - (5) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter; in addition, in the case of lots having multiple street frontages which by definition would be considered "front yards," the Zoning Administrator may authorize the installation of fences up to eight (8) feet in height, rather than the 4-foot limit specified above, to provide privacy for the side and rear yard areas of the dwelling based on its orientation on the lot; and
 - (6) The "finished" side of any fence shall face outward towards surrounding properties and rights-of-ways, except where the Zoning Administrator determines such orientation to be impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.
 - (7) No barbed wire or electrified or similar type fences shall be permitted except in conjunction with a bona fide agricultural operation.

Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.

The following accessory uses shall be permitted in conjunction with commercial and industrial uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion:

- (a) Fences or walls provided that:
- (1) fences or walls located in side or rear yards shall not exceed eight feet (8') [2.5m] in height;
 - (2) fences or walls located in front yards shall not exceed six feet (6') [2m] in height provided that corner visibility standards, as established in section 24.1-220 shall be observed;

- (3) the above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this chapter; and
- (4) the "finished" side of fences shall face any adjacent public right-of-way or residential zoning districts except where the Zoning Administrator determines such orientation to be impractical or unnecessary given existing fences or other extenuating circumstances on the adjacent property.

DIVISION 8. HOME OCCUPATIONS

Sec. 24.1-283. Home occupations permitted by special use permit.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

(e) Home occupations with non-resident employees.

- (1) All home occupation categories whether permitted as a matter of right or by special use permit under section 24.1-282 and 24.1-283 may be authorized under this section to include one (1) or more non-resident employees. The allowable number of non-resident employees shall be specified in the use permit approval.
- (2) Evaluation of this allowance shall be based on the general provisions of section 24.1-281 and applicable requirements as set forth in section 24.1-283.
- (3) The term of any use permit issued under the provisions of this section shall be for two (2) years or such other specific time period (either lesser or greater) as may be deemed appropriate by the board. Nothing in this section shall be construed to prevent the operator of the home occupation from applying for a new permit prior to or after expiration of the initial permit.

(Note: Sec. 24.1-283(g) was removed in its entirety.)

ARTICLE III. DISTRICTS

DIVISION 1. IN GENERAL

Sec. 24.1-302. Uses not listed.

It is the intent of this chapter to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by special permit. In the event a particular use is not listed in this chapter, and such use is not listed in section 24.1-307 as a prohibited use and is not prohibited by law, then the zoning administrator shall determine whether a materially similar use exists in this chapter. Should the zoning administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing. Should the zoning administrator determine that a materially similar use does not exist, the matter shall be referred to the planning commission for consideration of the initiation of an application for amendment of the chapter to establish a specific listing for the use in question.

Sec. 24.1-306. Table of land uses.

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS							
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG	
	CATEGORY 9 - RECREATION AND AMUSEMENT (NON-GOVERNMENTAL)													
1. Theater - Indoor									P		P			
2. Health, Exercise, Fitness Centers Including Swimming and Racquet Sports														
a) Indoor Only							S	P	P		P	P	P	
b) Indoor & Outdoor								S	P		P	P	P	
3. Bowling Alley									P		P			
4. Video Arcade, Pool Hall, Billiards Hall, Bingo Hall									S		S			
5. Indoor Family Amusement Center								S	P		P			
6. Skating Rink									P		P			
7. Firing Range-Indoor Only									S			S	S	
8. Miniature Golf, Waterslide, Skateboard Rink, Baseball Hitting Range, Outdoor Com-mercial Amusement									S		S			
9. Golf Driving Range	S								P		S	S	S	
10. Country Club or Golf Course, Public or Private	S	S	S	S	S	S		S			S			
11. Campgrounds	S	S							S	S				
12. Theme Park, Amphitheater, Stadium									S		S	S	S	
13. Marina, Dock, Boating Facility (Commercial)										P		P	P	
14. Marina, Dock, Boating Facility	S	S	S	S	S	S				P		P	P	

(Private/Club)													
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P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 11 - BUSINESS / PROFESSIONAL SERVICE												
1. Broadcasting Studio								P	P		P	P	P
2. Barber/Beauty Shop							P	P	P		P		P
3. Apparel Services (Dry Clean- ing/Laundry retail) Laundro- mat, Tailor, Shoe Repair, Etc.)							P	P	P		P	P	P
4. Funeral Home								S	P		P		
5. a) Photographic Studio							S	P	P		P	P	P
b) Film Processing Lab								S	P		P	P	P
6. Household Items Repair									P		P	P	P
7. Personal Services (Fortune Teller, Tattoo, Pawn Shop, Etc.)									S				
8. a) Banks, Financial Institu- tions							P	P	P		P		
b) Freestanding Automatic Teller Machines							P	P	P	S	P		
9. Offices						S	P	P	P		P	P	P
10. Hotel & Motel								S	P	S	P		
11. Timeshare Resort						S			S	S	S		
12. Restaurant/Sit Down								P	P		P		
13. Restaurant/Brew-Pub									P		P		
14. Restaurant/Fast Food								S	P		S		
15. Restaurant/Drive In								S	P		S		
16. Restaurant - Carry- out/Delivery only							S	P	P		S		
17. Catering Kitchen/Services							S	P	P		S		
18. Nightclub								S	S		S		
19. Commercial Reception Hall or Conference Center							S	S	P		P		
20. Small-Engine Repair (lawn and garden equipment, out- board motors, etc.)									P	P		P	P
21. Tool, Household Equipment, Lawn & Garden Equip- ment, Rental Establish- ment									P		P	P	P
22. Establishments Providing Printing, Photocopying, Blue printing, Mailing, Facsimile Reception & Transmission or similar business services to the general public, and business and professional users								P	P		P	P	P
23. Professional Pharmacy							P	P	P		P		

October 16, 2001

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
CATEGORY 12 - MOTOR VEHICLE / TRANSPORTATION													
1. Car Wash								S	P		S		
2. Automobile Fuel Dispensing Establishment/ Service Sta- tion (May include accessory convenience store and/or car wash)									P		S	P	
3. Auto Repair Garage									S			P	P
4. Auto Body Work & Painting												P	P
5. Auto or Light Truck Sales, Rental, Service (Including Motor cycles or R.V.'s) a) Without Auto Body Work & Painting b) With Body Work & Paint- ing									P		S	P	P
									S		S	S	P
6. Heavy Truck and Equipment Sales, Rental, Service									S			P	P
7. Farm Equipment Sales, Rental, Service									S			P	P
8. Manufactured Home Sales, Rental, Service									S			S	S
9. Boat Sales, Service, Rental, and Fuel Dispensing									P	P		S	
10. Marine Railway, Boat Build- ing and Repair										P		P	P
11. Truck Stop												S	S
12. Truck Terminal												P	P
13. Heliport									S		S	S	S
14. Helipad									S		S	P	P
15. Airport											S	S	S
16. Bus or Rail Terminal									P		S	P	P
17. Taxi or Limousine Service									P			P	
18. Towing Service / Auto Storage or Impound Yard												S	S
19. Automobile Graveyard, Junkyard													S
20. Bus Service/Repair Facility												P	P

ARTICLE IV. PERFORMANCE STANDARDS FOR USES

DIVISION 7. TEMPORARY USES (CATEGORY 8)

Sec. 24.1-443. Standards for flea markets.

Special use permits may be issued for flea markets operated on a temporary basis subject to the following provisions, the compliance with which shall be indicated on a detailed sketch plan drawn to scale submitted at the time of application.

ARTICLE VI. OFF-STREET PARKING AND LOADING

Sec. 24.1-601. General provisions.

- (a) All required off-street parking or loading spaces shall be maintained for parking or loading use for as long as the principal use for which such spaces were established shall remain.
- (b) No enlargement of a building, structure or use shall be made in such a way as to reduce the number of existing parking or loading spaces below the minimum number required unless provisions are made elsewhere on the premises to replace any required spaces which may have been removed. Additional parking or loading spaces shall be provided to accommodate any additional demand created by such enlargement.
- (c) In the event more than one principal use which requires parking or loading space is erected or established on the same premises, parking or loading space shall be provided on the basis of the sum of the required spaces for each use, except in the case of approved planned developments. For the purpose of this section, a shopping center shall be considered a principal use and, except for theaters or bingo halls located within such centers, parking requirements need not be calculated separately for each establishment therein.
- (d) No required off-street loading area shall be used to satisfy the space requirement for any off-street parking facilities.
- (e) The parking or loading requirements established herein shall be superseded if different requirements are established by the board as a condition of other approvals required by this chapter.
- (f) Where transportation demand management (TDM) techniques which reduce parking demand are to be utilized in accordance with the applicable provisions of article II, the parking requirements established herein shall be superseded.

ARTICLE VII. SIGNS

Sec. 24.1-701. Sign classifications.

Signs, as defined in article I, shall be classified according to one or more of the following definitions:

Political sign. A temporary sign which pertains to an issue of public concern or to an issue or candidate in a pending election.

Sec. 24.1-703. Permitted signs.

The following table indicates the functional class, structural class, area, height, and type of illumination of signs permitted within each of the zoning districts prescribed by this chapter. All such signs shall be in accordance with the general provisions established in section 24-702.

SECTION 24.1-703. DISTRICT SIGN REGULATIONS

Functional Class	Districts Where Permitted	Structural Class					IlluminationType			Free-Standing Signs		Maximum Cumulative Sign Area per lot or parcel exclusive of free-standing sign
		Free-standing	Mar- quee/Canvass	Projecting	Roof	Wall	None	Internal	External	Maximum Area ⁽²⁾	Maximum Height ⁽⁴⁾	

Sec. 24.1-704. Temporary signs.

The zoning administrator, upon application, may issue permits for the following temporary signs:

- (g) Political headquarters signs in commercial and industrial districts which are in addition to the signs otherwise permitted on the subject property and which do not exceed thirty-two (32) square feet [3m²] may be erected not earlier than sixty (60) days prior to the election, canvass, or primary to which such signs pertain and shall be removed within seven (7) days following the election, canvass or primary.

ARTICLE VIII. NONCONFORMING USES

Sec. 24.1-805. Validity of previously-issued permits and approvals.

No provision of this chapter shall be construed to affect the validity of any of the following:

- (a) Any building permit legally issued prior to the adoption of this chapter or amendments thereto, provided that all of the terms and conditions of such permit are observed.
- (b) Any site plan which received either preliminary or final approval prior to the adoption of this chapter or amendments thereto, provided that all time limitations relative to the period of validity of said plan approval are observed.
- (c) Any special use permit lawfully authorized by the board prior to the adoption of this chapter or amendments thereto, provided that all of the terms and conditions of such permit are observed. Other provisions of this chapter notwithstanding, any use legally established by use permit which subsequently becomes nonconforming may be altered, enlarged, expanded or changed with approval of the board in accordance with the provisions of section 24.1-115(d) of this chapter.
- (d) Subdivisions granted approval prior to the adoption of this chapter or amendment thereto, may proceed to record provided that all of the terms and conditions of plan approval, including time limits, are observed, and that the lot size and construction of buildings shall be in accordance with the area and dimensional requirements existing at the date of such approval. The front setbacks, and side and rear yard requirements shall be clearly shown on such plats. An approved preliminary subdivision plat, duly signed and dated by the agent, as defined in the subdivision ordinance, shall constitute approval for the purpose of this section if executed in accordance with all applicable laws.
- (e) Any approval of a planned development granted prior to the adoption of this chapter or amendment thereto. Such development may proceed to record provided that all of the terms and conditions of the approval, including time limits, are observed. An approved detailed plan for at least one (1) section of the development shall constitute approval for the purpose of this section.

ARTICLE IX. APPEALS

Sec. 24.1-901. Powers and duties.

The board of zoning appeals shall have all the powers and duties as prescribed in section 15.2-2309, Code of Virginia, and as set forth below:

- (a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or any amendment thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

- (e) None of the provisions of this section shall be construed as granting the board of zoning appeals the power to reclassify property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.

Sec. 24.1-903. Procedures.

- (b) Appeals of administrative decisions. An appeal to the board of zoning appeals may be made by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or from any other requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter. Such appeal shall be made within thirty (30) days after the decision appealed from by filing with the secretary of the board of zoning appeals an application and a notice of appeal specifying the grounds thereof; provided, however, that any appeal from a notice of violation involving temporary or seasonal commercial uses (reference Section 24.1-306, Category 8), parking of commercial trucks in residential zoning districts (reference Section 24.1-271), or which in the opinion of the Zoning Administrator constitute a series of similar short-term, recurring violations shall be made within ten (10) days. The secretary shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the appealed action was taken. An appeal shall stay all proceedings in furtherance of the appealed action unless the zoning administrator certifies to the board of zoning appeals that, by reason of facts stated in such certificate, a stay would, in the administrator's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board of zoning appeals or by a court of record, on application and on notice to the administrator for good cause shown.

Sec. 24.1-904. Appeals from decisions of board.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officers, department, board or bureau of the county may present to the county circuit court, within thirty (30) days after the final decision by the board of zoning appeals, a petition specifying the grounds on which aggrieved. The court shall review and decide on such petition in accordance with the provisions established by section 15.2-2314, Code of Virginia.

On roll call the vote was:

Yea: (4) Ashe, Noll, Wiggins, Burgett
Nay: (0)

MATTERS PRESENTED BY THE BOARD (continued)

Mr. Wiggins stated he was pleased how Seaford Elementary School turned out after the addition of the gymnasium, and he expressed a desire to hold an open house for citizens. He noted

that he attended the October 4 groundbreaking of the new YMCA and the ribbon cutting ceremony for the new administration building at Christopher Newport University. He stated he felt the outlook for the County was good, and he encouraged citizens to do their shopping and spending in the County. He stated the County provided many services for local businesses, but businesses weren't taking advantage of the services as they should. He then suggested that businesses contact the Office of Economic Development for assistance.

Chairman Burgett stated he had also attended the groundbreaking ceremony for the YMCA and was pleased that the center would be in the County. He explained that as a convenience the citizens in District I would be able to attend the James City County Community Center and receive a supplement from the County to offset the cost. Chairman Burgett noted he had attended a breakfast at Thomas Nelson Community College for the new Chancellor of community colleges in Virginia, and he reported on the Occasion for Industry Dinner sponsored by the Office of Economic Development. He mentioned that he had attended a flagpole dedication sponsored by the homeowners association in the York Crossing subdivision. Chairman Burgett noted that many different activities were planned for the Zweibrücken Delegation, and stated he was enjoying the delegation's visit.

UNFINISHED BUSINESS

CENTRALIZED PURCHASING POLICY AMENDMENTS

Mr. McReynolds made a brief presentation on proposed Ordinance No. 01-19(R) to amend the Centralized Purchasing Policy for York County. He explained that some changes were necessary because of State law revisions. He noted specifically the amendments dealing with how change orders are handled and increasing the authority for the purchasing agent to sign purchase orders up to \$5,000.

Mrs. Noll moved the adoption of proposed Ordinance No. 01-19(R) which reads:

AN ORDINANCE TO AMEND THE CENTRALIZED PURCHASING POLICY FOR YORK COUNTY

WHEREAS, Sections 15.2-1231 and 2.2-4343 of the Code of Virginia authorized the Board of Supervisors to provide for the centralized competitive purchasing of all supplies, equipment, materials and commodities for all departments, officers, and employees of the County, to include the County School Board and the Board of Public Welfare or Social Services;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of October, 2001, that the centralized procurement policy for all goods and services for the County of York, as adopted September 19, 2000, be and it is hereby amended to read and provide as follows:

ARTICLE I. PURPOSE, DEFINITIONS, APPLICATION OF POLICY

1-1. Purpose.

The purpose of this policy is to increase public confidence in purchasing by York County, to provide for fair and equitable treatment of all persons involved in public purchasing by the County, to maximize the purchasing value of public funds, to foster competition in the procurement process to the maximum feasible extent, and to provide for a centralized purchasing

system of quality and integrity for the County.

1-2. Effective Date.

This policy shall be in effect on and after October 1, 2001.

1-3. Authority.

This policy is adopted pursuant to §§ 2.2-4343(10) and 15.2-1231 of the Code of Virginia and is intended to supersede the operation of the Virginia Public Procurement Act as it applies to the procurement actions of the departments, agencies, officers, and employees subject to this policy. Those sections set forth in § 2.2-4343(12) of the Code of Virginia which, by law apply to all counties, are incorporated herein or are listed in an appendix to this policy for convenience. No other provisions of the Virginia Public Procurement Act shall apply unless specifically incorporated in this policy.

1-4. Definitions.

For purposes of this policy the following words and phrases shall have the meanings set forth below:

- (a) Approving Authority – “Approving Authority” shall mean the Board of Supervisors or the County School Board or the York-Poquoson Social Services Board.
- (b) Board or Board of Supervisors – “Board” or “Board of Supervisors” shall mean the Board of Supervisors of York County, Virginia.
- (c) Competitive Negotiation - Competitive negotiation is a method of procurement, which consists of the following elements:
 - 1. Issuance of a written request for proposal indicating in general terms what is sought to be procured and containing or incorporating by reference the other applicable contractual terms and conditions including any unique capabilities or qualifications which will be required of the offeror.
 - 2. Public notice of the request for proposal at least ten (10) calendar days prior to the date set for receipt of proposals by posting at the entrance to the Division of Purchasing for York County and by publication in at least one newspaper of general circulation in York County. In addition, proposals may be solicited directly from potential offerors.
 - 3. On the basis of the evaluation factors established by this policy and by the request for proposal, at least three (3) offerors deemed to be the most qualified, responsible and suitable on the basis of initial responses shall be selected. (If less than three (3) proposals are received, then less than three (3) offerors may be so selected.) Individual discussions shall then be had with each such offeror.

Review of the proposals submitted and discussions with offerors shall be conducted by a panel established by the using agency of not less than three County representatives that shall include one representative of

the Purchasing Division designated by the Purchasing Agent.

Repetitive informal interviews shall be permissible. Offerors shall be encouraged to elaborate on their qualifications, scope of work, performance data, or expertise pertinent to the proposed project as well as any alternative concepts. These discussions may encompass non-binding estimates of total project costs, including, where appropriate, design, construction, and life cycle costs. Methods to be used in arriving at a price for services may also be discussed. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. Price of service may be discussed and considered but will not be the sole determining factor in concluding negotiations.

After negotiations have been conducted with each offeror so selected, the offeror shall be selected which in the opinion of the panel has made the best proposal and the contract shall be offered to that offeror. Should the panel, after the initial submission of proposals, determine in writing that only one offeror is fully qualified, or that one offeror is clearly more qualified than the others under consideration, a contract may be negotiated and awarded to that offeror without further delay. A copy of such written determination shall be provided to the Purchasing Agent and to the approving authority when approval by other than the Purchasing Agent is required.

When the terms and conditions of multiple awards are so provided for in the request for proposal, awards may be made to more than one offeror.

(Note that the procedure for competitive negotiation for the procurement of professional services over \$30,000 differs from the one defined here. See Section 2-3(f) of this Policy.)

- (d) Competitive Sealed Bidding - Competitive sealed bidding is a method of procurement which includes the following elements:
1. Issuance of a written invitation to bid containing or incorporating by reference specifications and contractual terms and conditions applicable to the procurement. When it is impractical to prepare initially a purchase description to support an award based on price, an invitation to bid may be issued requesting submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
 2. Public notice of the invitation to bid at least ten (10) calendar days prior to the date set for receipt of bids by posting at the entrance to the Division of Purchasing for York County and by publication in at least one newspaper of general circulation in York County. In addition, bids may be solicited directly from potential offerors.
 3. Public opening and announcement of all bids received.
 4. Evaluation of the bids based on requirements set forth in the invitation and the provisions of this policy.

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple bids are so provided for in the invitation to bid, awards may be made to more than one bidder. In the event only one bid is received and the Purchasing Agent in consultation with the using agency makes a determination that it would not be in the best interest of the County to re-bid the procurement, such determination shall be in writing and shall be provided to the approving authority when approval by other than the Purchasing Agent is required.
- (e) Construction – “Construction” shall mean building, altering, repairing, improving or demolishing any structure, building, or roadway, and any draining, dredging, excavation, grading or similar work upon real property.
- (f) County – “County” shall mean the County of York, Virginia, a political subdivision of the Commonwealth of Virginia, and shall include all other departments, public bodies corporate, agencies, sanitary districts and officers of the County to which this policy applies. It shall also include any other entity that has chosen to participate in this policy and has entered into a cooperative procurement agreement with the County.
- (g) County Administrator – “County Administrator” shall mean the County Administrator of York County, or, a duly authorized designee.
- (h) Goods – “Goods” shall mean all material, equipment, supplies, printing, and automated data processing hardware and software.
- (i) Offeror – “Offeror” unless expressly indicated otherwise, shall mean both a bidder, i.e., a person who submits a competitive sealed bid in response to an Invitation to Bid, or a person who submits a proposal in response to a Request for Proposals.
- (j) Purchasing Agent – “Purchasing Agent” shall mean the County Administrator of York County, Virginia, or any person designated by the County Administrator to implement all or a portion of this policy.
- (k) Services – “Services” shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of the acquisition of equipment or materials or the rental of equipment, materials, or supplies.
- (l) Using Agency – “Using Agency” shall mean any officer, employee, or other entity of the County requiring any goods, services, insurance, or construction to be procured under the policies and procedures established by this policy.

1-5. Application of Policy.

- (a) This policy is intended to provide for centralized competitive purchasing and covers all purchasing by all departments, officers, elements and employees of the County, including specifically, but not limited to, the York County School Board, the York-Poquoson Department of Social Services, Constitutional Officers, and the York County Library. This policy is not intended to require review or approval by the Board of specific items procured by the York County School

Board, the York-Poquoson Department of Social Services, the Constitutional Officers, the York County Library, or public bodies who have by agreement become subject to this policy, when sufficient funds have been appropriated to such entity or officer for the purpose of the procurement and this policy has been followed. The Purchasing Agent with regard to such entities and officers shall, however, by signing all purchase orders for such procurements prior to the placement of a firm order, certify compliance with this policy and procedures issued pursuant to it. The Purchasing Agent shall not execute a purchase order if such procurement has not been in compliance with this policy and the procedures developed pursuant to it.

- (b) This policy shall apply to all purchases or contracts for the purpose of procuring goods, services, insurance, and construction involving the expenditure of public funds.
- (c) When any procurement involves the expenditure of state or federal assistance, grant, loan, or contract funds the procurement shall be conducted in accordance with any mandatory federal or state requirements which are not reflected in this policy if the receipt of such funds is conditioned upon compliance with the mandatory procedures.
- (d) This policy shall not prohibit compliance with the terms and conditions of any grant, gift, or bequest that are otherwise consistent with law.
- (e) This policy shall not apply to contracts existing on its effective date and such contracts may be performed or extended according to their terms.

1-6. Cooperative Procurement.

The Purchasing Agent may administer cooperative procurement agreements with public bodies not otherwise covered by this policy, subject to the terms and conditions of such agreement as may be authorized by the Board.

1-7. Contracts or Purchases Made in Violation of this Policy.

Except as provided herein, no official, elected or appointed, nor any employee, shall purchase or contract for any goods, services, insurance, or construction. Any purchase or contract made contrary to the provisions of this policy shall be void, and the County will not be bound thereby. Any person who makes such a procurement or disposition may be personally liable therefor to the vendor or purchaser of the goods, services, or construction involved.

ARTICLE II. PURCHASING AGENT; COMPETITION REQUIREMENTS

2-1. Delegation of Authority to Purchasing Agent.

The Purchasing Agent shall serve as the principal public purchasing official for the County and shall be responsible, under the supervision of the Board, for the procurement of all goods, services, insurance, and construction as well as the management and disposal of surplus materials. The Purchasing Agent may delegate authority to a duly authorized agent or agents. The authority of the Purchasing Agent shall specifically, but without limitation, include the authority to select the method of procurement to be used and the authority to negotiate and execute contracts on behalf of the County for any and all procurements or for the disposition of

materials. The Purchasing Agent shall conduct all purchasing activities in accordance with the provisions of this policy. The Purchasing Agent may not delegate approval of the use of competitive negotiation, as required by Subparagraph (g) of Section 2-3 of this policy, except in the case of purchases not exceeding \$5,000.

2-2. Adoption of Procedures.

The Purchasing Agent shall prepare forms and administrative regulations for the purpose of implementing the provisions of this policy. Such forms and regulations shall be deemed a part of this policy and shall direct the actions of those to whom this policy applies. A copy of such forms and administrative regulations shall be provided to the Board annually, along with a summary of any administrative changes made during the preceding year. The Board shall approve the promulgation of those regulations.

2-3. Competition Requirements.

Prior to any purchase of goods, insurance, services or construction, reasonable price competition is desired. Except as otherwise provided in this policy the competitive pricing methods set forth below shall be followed:

- (a) For purchases in the amount of \$1,000 or less, prices are to be compared by telephone, catalogue, or by other appropriate means. No permanent documentation of price comparison is required.
- (b) For purchases in excess of \$1,000 and not greater than \$5,000, telephone calls shall be placed to at least two suppliers of the item. At a minimum, oral quotes shall be obtained and written documentation of the telephone solicitation shall be made, showing the item requested, date, time, company name, price quoted, and individual making quote. Written requests for quotation may also be used.
- (c) For purchases in excess of \$5,000 but not greater than \$30,000 written quotes are required and, at least three (3) suppliers shall be contacted. Telephone or written requests for quotations may be used.
- (d) When a procurement transaction is made under (a), (b), or (c) above, the purchase shall be made from the supplier quoting the lowest price, unless the Purchasing Agent, using the evaluation factors in this policy for competitive negotiation or competitive sealed bidding as the case may be, documents in writing a determination that, in the best interest of the County, such purchase should be made from another supplier quoting a higher price. Such determination for purchases in excess of \$5,000 shall be approved by the County Administrator or the approving authority's designee.
- (e) Purchases that in the aggregate or in the sum of all phases are expected to be in excess of \$30,000 shall be made by either competitive sealed bidding or competitive negotiation.
- (f) Purchases of professional services, as that term is defined in § 2.2-4301 of the Code of Virginia, when the cost of such services is expected to exceed \$30,000, shall be made in accordance with subparagraph 3.a. under the definition of competitive negotiation as set forth in § 2.2-4301 of the Code of Virginia.
- (g) The Purchasing Agent shall have the authority to use competitive negotiation to pro-

cure any goods, services or insurance, after documenting in advance the basis therefore in writing, as required by § 2.2-4303.C., Code of Virginia. Insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3(b) of the definition of “competitive negotiation” in § 2.2-4301, Code of Virginia, if the basis for doing so is approved by the Board. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the Purchasing Agent in writing, after making the findings required by § 2.2-4303(D), Code of Virginia:

- (1) contracts for the alteration, repair, renovation or demolition of buildings when the cost of the contract will not exceed \$500,000; or
- (2) contracts for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.

Nothing in this policy shall prevent the use of competitive sealed bidding or competitive negotiation in procurements under \$30,000, if deemed appropriate by the Purchasing Agent.

2-4. Exceptions to Competition Requirements.

Section 2-3 of this policy shall not apply and no price competition other than specified in this section is required in the following procurement transactions:

- (a) The purchase of items under procurement contracts made available to the County by the Commonwealth of Virginia or to purchases made available to the County through other state, federal, or local governmental entities;
- (b) Contracts for legal services, expert witnesses, and other services associated with litigation, regulatory proceedings, or other legal matters;
- (c) Purchases for special police work when the Sheriff certifies that the purchases are needed for undercover law enforcement operations;
- (d) Contracts and purchases by the Industrial Development Authority with respect to any item of cost of an “authority facility” or “facilities” as defined in § 15.2-4902 of the Code of Virginia;
- (e) Upon a determination by the Purchasing Agent in writing, which writing shall state the basis for such determination, that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competition. The Purchasing Agent shall conduct appropriate negotiations as to price, delivery, and terms. A record of the sole source procurement shall be maintained listing the contractor’s name, the amount, and qualifying circumstances. The Purchasing Agent shall provide a copy of the written determination to the County Administrator or other appropriate Approving Authority when approval is required by Section 3-17 of this policy.
- (f) In cases of emergency provided, however, such procurement shall be made with such competition as is practicable under the circumstances. A written statement by the Purchasing Agent of the basis for the emergency and for the selection of the particular supplier shall be included in the papers relating to the procurement. The Purchasing

Agent shall develop appropriate procedures regarding emergency purchases. The term "emergency" as used in this subparagraph means a situation where there exists a threat to public health, welfare, or safety or when an unforeseen circumstance causes disruption of an essential service.

- (g) Agreements or contracts entered into between the County and private parties for cost participation or cost sharing in the extension or construction of public utilities or the provision of other public services. Any such agreements must be approved by the Board.
- (h) Travel advances, travel reimbursements, or travel expenses;
- (i) Meals, beverages, entertainment, awards, or similar purchases in conjunction with official county functions or meetings.
- (j) Payments for services to jurors, board and commission members, sports officials, and medical examiners;
- (k) Contracts for local telephone service (excepting cellular and paging services), or other regulated utility services;
- (l) Interdepartmental or interagency expenses or purchases;
- (m) Contracts of employment;
- (n) Advertising and legal notices;
- (o) Dues and subscriptions;
- (p) Employee educational expenses;
- (q) Textbooks, library books, and other library items for circulation to, or use by students, acquired by the public schools;
- (r) Public library books and other library items for circulation to, or use by the public;
- (s) Services rendered to or payments received by clients of the Department of Social Services;
- (t) Foster home placements;
- (u) Treatment services provided to clients by the Department of Community Services;
- (v) Clinical supervision services for counselors in County employment;
- (w) Occupational therapy, physical therapy, student evaluations;
- (x) Mail and mail-related costs (e.g. postage meter expense, stamps, etc.);
- (y) Instructional/specialty educational materials, promotional items, Crafts.

2-5. Purchases at Auction.

Notwithstanding any other provision of this policy, upon a determination by the Purchasing Agent that the purchase of certain designated goods from a public auction sale is in the best interest of the County, such items may be purchased at auction sale. The Purchasing Agent shall document the basis for any such determination.

2-6. Documentation Required.

Documentation of competitive pricing or other documentation required by this policy, including a complete copy of the solicitation for competitive bids or proposals, shall be retained along with other papers related to the procurement in the office of the Division of Purchasing. Such documentation shall be retained until the acquisition of goods is completed or the services have been rendered and after such time may be destroyed in accordance with County and State procedures governing records retention.

ARTICLE III. ADMINISTRATIVE PROVISIONS

3-1. Division of Requirements.

No using agency shall artificially divide contract requirements so as to avoid any dollar limitations set forth in this policy.

3-2. Bid List.

The County does not accept the responsibility for maintaining a bid list or the responsibility for the failure of any competitor to receive a solicitation directly from the County. The Purchasing Agent, may for the convenience of the County, maintains a bidders list containing the names of prospective offerors. The maintenance of such list shall not be construed as the acceptance of an obligation to notify any or all of the prospective offerors on such list of procurement transactions by the County.

3-3. Cost Plus Percentage of Cost Contracts Prohibited.

Except in the case of an emergency affecting the public health, safety or welfare, no contract shall be awarded on the basis of cost plus a percentage of cost. This paragraph shall not apply to contracts of insurance. Public contracts may be awarded on any other basis.

3-4. Modification of Contracts.

Contracts entered into by the County may include provisions for modification of the contract during performance but no fixed price contract may be increased by more than 10 percent of the amount of the contract or \$30,000, whichever is greater, without prior approval by the Board or other approving authority. Following such approval the Contract price will consist of the original Contract amount plus all such approved modifications. The time of performance for any contract shall not be extended by more than 20 percent of the original term of the contract or thirty (30) days, whichever is greater, without prior approval by the Board or other Approving Authority. Any such modifications shall not exceed appropriations available for the project. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

3-5. Prequalification of Offerors.

The Purchasing Agent may pre-qualify prospective offerors for any solicitation. Consideration of bids or proposals may be limited to pre-qualified offerors. The opportunity to pre-qualify shall be given to any prospective offeror who has not been suspended or debarred under this policy.

- (a) Pre-qualification of prospective contractors for construction. If the Purchasing Agent chooses to pre-qualify prospective contractors for construction, an application form shall be used which sets forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information and documents as are appropriate for an objective evaluation of all prospective contractors pursuant to such criteria.

The form shall contain a box, which the prospective contractor may check to request that all information submitted by the contractor in connection with the pre-qualification process shall be deemed a trade secret or proprietary information pursuant to subdivision B 55 of § 2.2-4342(F), Code of Virginia. In all instances in which the Purchasing Agent requires pre-qualification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of pre-qualification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this section to be accomplished. At least thirty (30) days prior to the date established for submission of bids or proposals under the procurement of the contract for which the pre-qualification applies, the Purchasing Agent shall advise in writing each contractor which submitted an application whether that contractor has been pre-qualified. In the event that a contractor is denied pre-qualification, the written notification to such contractor shall state the reasons for such denial of pre-qualification and the factual basis of such reasons. The Purchasing Agent may deny pre-qualification to any contractor only if the Agent finds one of the following:

- (1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the public body shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement;
- (2) The contractor does not have appropriate experience to perform the construction project in question;
- (3) The contractor has had judgments entered against him for the breach of contracts for construction;
- (4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the Purchasing Agent may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another locality without good cause. In all instances, any such substantial noncompliance shall be documented;
- (5) The contractor has been convicted within the past five years of a felony involving moral turpitude regarding any procurement of or performance of a construc-

tion contract;

- (6) The contractor failed to provide to the Purchasing Agent in a timely manner any information requested relevant to subdivisions 1 through 5 above.

(b) Pre-qualification for prospective offerors for other than construction solicitations.

If the Purchasing Agent chooses to prequalify prospective offerors for procurements for other than construction, the procedure set forth in subsection (a) above shall be followed, except that reasonable notice in writing of less than thirty (30) days prior to the date established for the submission of bids or proposals may be given to prospective offerors as to whether they are deemed pre-qualified or not. The Purchasing Agent may include in the application form for the pre-qualification of prospective offerors of this type reasonable criteria in addition to those set forth in subsection (a) above for the pre-qualification evaluation.

(c) Pre-qualification generally.

In pre-qualifying offerors pursuant to either (a) or (b) above:

- (1) Pre-qualification of a prospective offeror shall not constitute a conclusive determination that a offeror is responsible, and such offeror may be rejected as not responsible on the basis of subsequently discovered information.
- (2) The failure of a prospective offeror to pre-qualify with respect to a given procurement shall not bar the offeror from seeking pre-qualification as to future procurements or from bidding or submitting proposals on procurements which do not require pre-qualification.

A decision by the Purchasing Agent denying pre-qualification shall be final and conclusive unless the offeror appeals the decision by instituting legal action pursuant to § 2.2-4364, Code of Virginia.

3-6. Pre-Bid Conferences.

When deemed necessary by the Purchasing Agent, a pre-bid conference with prospective bidders may be held after draft specifications have been prepared. Such conferences are for the purpose of detecting unclear provisions and tend to widen competition by removing unnecessarily restrictive language. After such conference the final specifications shall be prepared.

3-7. Comments or Questions Regarding Invitations for Bid or Requests for Proposal.

Once invitations to bid or requests for proposal have been advertised, should a prospective offeror find any discrepancy in, or omissions from, the specifications, request for proposal, or other contract documents, or should he be in doubt as to their meaning, he shall at once notify the specified contact person who will send written instructions to all bidders. The County will not be responsible for any oral instructions.

3-8. Bonds.

In addition to any bonds which may be required by state law, the Purchasing Agent may, in the

Agent's sole discretion, require a bid, performance, or payment bond or other specified surety arrangement in any procurement solicitation, provided that for construction contracts in excess of \$100,000, performance and payment bonds shall be required in the amount of the contract. The requirement for such surety shall be clearly stated in the solicitation.

3-9. Offeror's Responsibilities.

By submitting a bid or proposal an offeror agrees and warrants that it has examined all contract documents and, if appropriate, the subject of the contract, and where the specifications require a given result to be produced, that the specifications are adequate and the required results can be produced under the specifications in the contract. Omissions from the specifications shall not relieve the offeror from the responsibility of complying with the general terms and intent of the contract as indicated by the specifications. Once the award has been made, failure to have read all the conditions, instructions, and specifications of the contract will not be cause to alter the original contract or proposal, or for the offeror to request additional compensation.

3-10. Signatures on Offers or Bids.

The firm, corporation, or individual name of the offeror must be signed to any proposals or bids submitted. In the case of a corporation, the title of the officer signing must be stated and each officer must be duly authorized. In the case of a partnership, the signature of at least one of the partners must follow the firm name using the term "member of the firm" or "general partner."

3-11. Withdrawal or Cancellation of Bids.

Except as provided in the second paragraph of this section, an offeror may withdraw or cancel a bid or proposal at any time prior to the date set for opening. After such time the offeror or bidder may not withdraw for a period of sixty (60) calendar days. Any offeror may be required to clarify its offer or bid or acknowledge by written confirmation that the minimum requirements of the specifications are included in the offeror's proposal.

The withdrawal of bids for construction contracts shall be handled in the manner specified in the advertisement for bids in accordance with the provisions of § 2.2-4330.A. of the Code of Virginia.

3-12. Evaluation of Sealed Bids.

When competitive sealed bidding is used, the following factors shall be considered, in addition to price, when determining the lowest responsible bidder and the responsiveness of the bid:

- (a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
- (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (c) The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
- (d) The quality of performance of previous contracts or services.

- (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (f) The sufficiency of financial resources and ability of the bidder to perform the contract or provide the service.
- (g) The quality, availability and adaptability of the goods or services to the particular use required.
- (h) The ability of the bidder to perform future maintenance and service for use of the subject of the contract.
- (i) The number and scope of conditions attached to the bid.
- (j) Any other condition or criteria included in the request for bids or the instructions to bidders.

3-13. Evaluation of Proposals Under Competitive Negotiation.

When competitive negotiation is the method of procurement selected, the following factors shall be considered in a descending order of importance in determining the most qualified firm or individual:

- (a) Any special qualifications or requirements set forth in the proposal documents.
- (b) Qualifications of the project manager and project teams.
- (c) Overall qualifications and experience of the firm and any subcontractors to be used.
- (d) Quality of the content of the proposal and its responsiveness to the request for proposal.
- (e) The sufficiency of financial resources and ability of the bidder to perform the contract or provide the services.
- (f) Financial ability of the firm to perform future maintenance and service for the subject of the contract.
- (g) The location of the office that will have the responsibility for providing the services and the ability of the offeror to respond quickly to requests and requirements of the County.
- (h) Cost estimates (which may or may not be required at the time of submission of the proposal, depending upon the circumstances).

3-14. Tie Bids.

If more than one bid or proposal received is for the same total amount or unit price, quality and service being equal, the tie bidders shall be invited to resubmit written bids below the original bid and the award shall be made to the bidder with the lowest price.

3-15. Negotiations When Bids Exceed Available Funds.

If the lowest acceptable bid exceeds available funds, the Purchasing Agent may negotiate with

the bidder to obtain a contract price within available funds. The negotiations shall be confined to a reduction in the contract price and shall not deal with changes in the contract requirements.

3-16. Cancellation or Rejection of Bids.

An invitation to bid, a request for proposal, any other solicitation, or any and all bids or proposals received may be canceled or rejected when the Purchasing Agent determines that it is in the best interest of the County to do so. The reasons therefor shall be made a part of the contract file. Any bid which is incomplete, conditional, obscure, or which is not in conformance with the specifications may be rejected or any such irregularities may be waived at the option of the Purchasing Agent provided they do not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction to be procured.

No bidder shall be permitted to alter, modify or amend its bid after the time fixed for submission of bids, except as provided in Section 3-11 of this Policy.

No bid received after the time fixed for submission of bids shall be opened or considered.

No statement or notation whatsoever, written, printed, typed or otherwise set out on any bid or offer envelope, including any addition or deduction in contract price, shall be recognized or considered in the review and tabulation of any bid or offer or for any other purpose.

3-17. Approvals.

Except as provided for emergency purchases, all purchases in excess of \$5,000 shall be specifically approved by the County Administrator, or the Approving Authority's designee, prior to the placement of a firm order. Purchases in excess of \$30,000 shall be specifically approved by the Board of Supervisors or the appropriate Approving Authority prior to placement of a firm order. Emergency purchases may be approved after the fact. The request for approval shall identify the method of price competition used in the procurement.

This policy is not intended to require review or approval by the Board of specific items procured by the York County School Board, the York-Poquoson Department of Social Services, the Constitutional Officers, the York County Library, or public bodies who have by agreement become subject to this policy, when sufficient funds have been appropriated to such entity or officer for the purpose of the procurement and this policy has been followed. The Purchasing Agent with regard to such entities and officers shall, however, by signing all purchase orders for such procurements prior to the placement of a firm order, certify compliance with this policy and procedures issued pursuant to it. The Purchasing Agent shall not execute a purchase order if such procurement has not been in compliance with this policy and the procedures developed pursuant to it.

3-18. Contract Requirements and Legal Review.

The terms and conditions of procurements in excess of \$15,000 shall be reviewed and approved as to form by the County Attorney prior to issuance by the Purchasing Agent. Contracts signed by all parties and containing, or incorporating by reference, all applicable terms and conditions shall be required for procurements of services or construction in excess of \$25,000. Formal Invitations for Bids (IFB) and Requests for Proposals (RFP) for procurement of construction or services, when required, shall be reviewed by the County Attorney prior to advertising. Whenever a contract, signed by all parties and containing, or incorporating by reference, all applica-

ble terms and conditions is to be used in a procurement, it and all amendments and changes thereto shall be approved as to form by the County Attorney.

3-19. Decisions of Purchasing Agent or Board Final.

All offerors are subject to the decision of the Purchasing Agent as to the quality of what is offered, responsiveness of the offer, responsibility of the offeror, and the qualifications of the offeror. The Purchasing Agent will evaluate bids or proposals and in all cases the decision made shall be final. Every offeror submitting a bid or proposal agrees, as a condition precedent to the submission, to abide by the decisions of such official and all of the provisions of this policy.

Following execution of a contract as the result of a competitive negotiation, an unsuccessful offeror may request a 'de-briefing' of a specific procurement action. Such request shall be submitted in writing to the Purchasing Agent not more than thirty (30) days following the action of the approving authority. The Purchasing Agent shall meet with the offeror within fifteen (15) days of the request to discuss how the offeror may improve proposals for future work with the County.

3-20. Debarment and Suspension.

After giving fifteen (15) days' written notice and providing an opportunity to be heard, the Purchasing Agent, after consultation with the County Attorney, is authorized to debar any offeror for cause from consideration for the award of contracts. The debarment shall not be for a period of more than three (3) years.

After consultation with the County Attorney, the Purchasing Agent is authorized to suspend an offeror from consideration for the award of contract if there is probable cause to believe that the offeror has engaged in any activity that might lead to debarment. The suspension shall not be for a period exceeding three (3) months. Notice of any debarment or suspension shall be provided to the Board, and to the contractor, stating the reasons for the action taken.

The causes for any such debarment or suspension may include, but are not necessarily limited to, the following:

- (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;
- (b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense of moral turpitude indicating a lack of business or personal integrity or honesty which currently, seriously, and directly affects responsibility as a County offeror;
- (c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- (d) Violation of contract provisions of a character which is regarded by the Purchasing Agent to be so serious as to justify a debarment action including, but not limited to:
 - (1) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in a contract with the County; or

- (2) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts.

(e) Any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a County contractor including debarment by another governmental entity.

3-21. Freedom of Information Act.

With the following exceptions, procurement documents are subject to the Virginia Freedom of Information Act:

- (a) Cost estimates relating to a proposed procurement transaction prepared by or for the County shall not be open to public inspection.
- (b) Bid and proposal records shall be open to public inspection only after award of the contract. Any bidder or offeror may be allowed to inspect the bid or proposal records after bid opening or after the evaluation and negotiation of proposals are completed, and prior to award unless the County decides not to accept any bids or not to accept any of the proposals and to reopen the contract.
- (c) Trade secrets or proprietary information submitted to the County are not subject to disclosure if requested by the person submitting such information prior to or upon submission of the data or other materials. Any such request must identify what is to be protected and state the reasons therefor.
- (d) Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions imposed by the Purchasing Agent to insure security and integrity of the records.

3-22. Claims.

Contract claims, if not otherwise provided for in such contract, shall be submitted to the Board in accordance with the provisions of §§ 15.2-1245, et seq., Code of Virginia, or, if appropriate, to the County School Board pursuant to §§ 22.1-122, and 15.2-1245, et seq., Code of Virginia, mutatis mutandis.

ARTICLE IV. DISPOSITION OF SURPLUS PROPERTY.

4-1. Sale of Surplus Property.

All using agencies shall, upon request, submit to the Purchasing Agent a report of all surplus, worn out, or obsolete items which should be disposed of. The Purchasing Agent shall have the authority to transfer such surplus stock to other using agencies. All property not so transferred shall be exchanged, traded in on new items, salvaged, or sold as deemed appropriate by the Purchasing Agent.

In general, sales may be made at public auction, after prior advertisement in a newspaper of general circulation in the County of York, or sold on an appropriate web-site (at the sole discretion of the Purchasing Agent) to the highest bidder. Individual items may be scrapped, if in the opinion of the Purchasing Agent, the cost of storage and sale exceeds the value of the item. If the value of any individual item is estimated to exceed \$10,000, sealed bids shall be

solicited by public notice inserted at least once in a newspaper of general circulation in York County at least ten (10) calendar days prior to the final date for the submission of sealed bids. Bids may also be solicited for the disposition of any surplus item if the Purchasing Agent determines it to be in the best interest of the County. The Board, upon the request of the Purchasing Agent, may make a special dispensation of any individual item if, in the opinion of the Board, such dispensation is in the public interest.

APPENDIX

VIRGINIA CODE PROVISIONS APPLICABLE TO COUNTY PROCUREMENT.

The following provisions of the Code of Virginia apply to the purchasing procedures of the County and are incorporated in this policy for the convenience of the user:

§ 2.2-4301 ... "Competitive negotiation" ... 3.a, Procurement of professional services.

The public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss non-binding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

A contract for architectural or professional engineering services relating to construction projects may be negotiated by a public body, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. Such contract may be renewable for two additional one-year terms at the option of the public body. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall not exceed \$500,000 or, in the case of a state agency, as defined in § 2.2-4347, such lesser amount as may be determined by the Director of the Department of General Services, and (c) the project fee of any single project shall not exceed \$100,000 or, in the case of a state agency, such lesser amount as may be determined by the Director of the Department of General Services, except that in any locality or any authority or sanitation

district with a population in excess of 8,000, such fee shall not exceed \$200,000. Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (i) the Request for Proposal so states and (ii) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term.

Multiphase professional services contracts satisfactory and advantageous to the Department of Transportation for environmental, location, design and inspection work regarding highways and bridges may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

§ 2.2-4303. ...Methods of procurement. C and D--

C. Upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in § 2.2-4301. The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

1. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build basis or construction management basis under § 2.2-4306;
2. By any public body for the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than \$500,000;
3. By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property; or
4. As otherwise provided in § 2.2-4308.

§ 2.2-4305. Competitive procurement by localities on state-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building by any local governing body or subdivision thereof for which state funds of not more than \$30,000 in the aggregate of for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotia-

tion as provided under subsection D of §2.2-4303. The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

§ 2.2-4308. Design-build or construction management contracts for public bodies other than the Commonwealth; eligibility requirements; award of contract; records to be kept. --

A. While the competitive sealed bid process remains the preferred method of construction procurement for public bodies in the Commonwealth, any public body other than the Commonwealth may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis provided the public body complies with the requirements of this section and has obtained the approval of the Design-Build/Construction Management Review Board (the Review Board) pursuant to § 2.2-2406.

Prior to making a determination as to the use of design-build or construction management for a specific construction project, the public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall advise the public body regarding the use of design-build or construction management for that project and who shall assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals.

Prior to issuing a Request for Proposal for any design-build or construction management contract for a specific construction project, the public body shall:

1. Have adopted, by ordinance or resolution, written procedures governing the selection, evaluation, and award of design-build and construction management contracts. Such procedures shall be consistent with those described in this chapter for the procurement of nonprofessional services through competitive negotiation. Such procedures shall also require Requests for Proposals to include and define the criteria of such construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications; and may define such other requirements as the public body determines appropriate for that particular construction project. Except as may otherwise be approved by the Review Board, such procedures for:

- a. Design-build construction projects shall include a two-step competitive negotiation process consistent with the Review Board's regulations.

- b. Construction management projects shall include selection procedures and required construction management contract terms consistent with the Review Board's regulations.

2. Have documented in writing that for a specific construction project (i) a design-build or construction management contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a design-build or construction management contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous.

B. Once approved by the Review Board in accordance with § 2.2-2406, the public body may procure a design-build or construction management contract for the specific construction project presented to the Review Board. Unless otherwise specified in the Request for Proposal, the contract shall be awarded to the fully qualified offeror who submits an acceptable proposal at the lowest cost in response to the Request for Proposal.

C. The public body shall provide information as requested by the Review Board to allow post-project evaluation by the Review Board.

§ 2.2-4311. Employment discrimination by contractor prohibited.

All public bodies shall include in every contract of over \$10,000 the following provisions:

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

§ 2.2-4315. Use of brand names.

Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer shall not restrict bidders to the specific brand, make or manufacturer named; and shall be deemed to convey the general style, type, character, and quality of the article desired, and any article which that public body in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

§ 2.2-4317. Prequalification generally; prequalification for construction. --

A. Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.

B. Any prequalification of prospective contractors for construction by a public body shall be pursuant to a prequalification process for construction projects adopted by the public body. The process shall be consistent with the provisions of this section.

The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of

all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of § 2.2-4342.

In all instances in which the public body requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the public body shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

A decision by a public body denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals the decision as provided in § 2.2-4357.

C. A public body may deny prequalification to any contractor only if the public body finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the public body shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the public body has not contracted with a contractor in any prior construction contracts, the public body may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. A public body may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of this chapter, (ii) the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1, or (iv) any substantially similar law of the United States or another state;

6. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

7. The contractor failed to provide to the public body in a timely manner any information requested by the public body relevant to subdivisions 1 through 6 of this subsection.

D. If a public body has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria. However, nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.

E. The provisions of this subsection shall not apply to prequalification for contracts let by the Commonwealth Transportation Board under § 33.1-12.

§ 2.2-4330. Withdrawal of bid due to error.

A. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

One of the following procedures for withdrawal of a bid shall be selected by the public body and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or (ii) the bidder shall submit to the public body or designated official his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, the work papers, documents and materials may be considered as trade secrets or proprietary information subject to the condi-

tions of subsection F of § 2.2-4342. The bids shall be opened one day following the time fixed by the public body for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the public body until the two-hour period has elapsed. The mistake shall be proved only from the original work papers, documents and materials delivered as required herein.

B. A public body may establish procedures for the withdrawal of bids for other than construction contracts.

C. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

D. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.

E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

F. If the public body denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

§ 2.2-4333. Retainage on construction contracts.

A. In any public contract for construction that provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with no more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

B. Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.

§ 2.2-4334 Deposit of certain retained funds on certain contracts with local governments; penalty for failure to timely complete.

A. Any county, city, town or agency thereof or other political subdivision of the Commonwealth when contracting directly with contractors for public contracts of \$200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, shall include in the Bid Proposal an option for the contractor to use an escrow account procedure for utilization of the political subdivision's retainage funds by so indicating in the space provided in the proposal documents. In the event the contractor elects to use the escrow account procedure, the escrow agreement form included in the Bid Proposal and Contract shall be executed and submitted to the political subdivision within fifteen calendar days

after notification. If the escrow agreement form is not submitted within the fifteen-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

B. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth. The escrow agreement and all regulations adopted by the political subdivision entering into the contract shall be substantially the same as that used by the Virginia Department of Transportation.

C. This section shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

D. Any such public contract for construction with a county, city, town or agency thereof or other political subdivision of the Commonwealth, which includes payment of interest on retained funds, may require a provision whereby the contractor, exclusive, of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

E. Any subcontract for such public project that provides for similar progress payment shall be subject to the provisions of this section.

§ 2.2-4335. Public construction contract provisions barring damages for unreasonable delays declared void

A. Any provisions contained in any public construction contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay, in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the public body, its agents or employees and due to causes within their control shall be void and unenforceable, as against public policy.

B. Subsection A shall not be construed to render void any provision of a public construction contract that:

1. Allows a public body to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractors, agents or employees;
2. Requires notice of any delay by the party claiming the delay;
3. Provides for liquidated damages for delay; or
4. Provides for arbitration or any other procedure designed to settle contract disputes.

C. A contractor making a claim against a public body for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public con-

struction contract shall be liable to the public body and shall pay it for a percentage of all costs incurred by the public body in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim that is determined through litigation or arbitration to be false or to have no basis in law or in fact.

D. A public body denying a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the public body shall be equal to the percentage of the contractor's total delay claim for which the public body's denial is determined through litigation or arbitration to have been made in bad faith.

§ 2.2-4336. Bid bonds.

A. Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000 shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

B. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

C. Nothing in this section shall preclude a public body from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.

§ 2.2-4337. Performance and payment bonds.

A. Upon the award of any public construction contract exceeding \$100,000 awarded to any prime contractor, the contractor shall furnish to the public body the following bonds:

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in such contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work.

"Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are legally authorized to do business in Virginia.

C. If the public body is the Commonwealth, or any agency or institution thereof, the bonds shall be payable to the Commonwealth of Virginia, naming also the agency or insti-

tution thereof. Bonds required for the contracts of other public bodies shall be payable to such public body.

D. Each of the bonds shall be filed with the public body that awarded the contract, or a designated office or official thereof.

E. Nothing in this section shall preclude a public body from requiring payment or performance bonds for construction contracts below \$100,000.

F. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

§ 2.2-4338. Alternative forms of security. --

A. In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

B. If approved by the Attorney General in the case of state agencies, or the attorney for the political subdivision in the case of political subdivisions, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the public body equivalent to a corporate surety's bond.

C. The provisions of this section shall not apply to the Department of Transportation.

§ 2.2-4340. Action on performance bond.

No action against the surety on a performance bond shall be brought unless within five years after completion of the work on the project to the satisfaction of the Department of Transportation, in cases where the public body is the Department of Transportation, or in all other cases within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty that gave rise to the action.

§ 2.2-4341. Actions on payment bonds; waiver of right to sue.

A. Subject to the provisions of subsection B, any claimant who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of ninety days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due him for the labor or material. The obligee named in the bond need not be named a party to such the action.

B. Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond under subsection F of §2.2-4337 but who has no contractual relationship, express or implied, with such contractor,

may bring an action on the contractor's payment bond only if he has given written notice to such contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond under subsection F of §2.2-4337 but who has no contractual relationship, express or implied, with such contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

C. Any action on a payment bond shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

D. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

§ 2.2-4343.1. Permitted contracts with certain religious organizations; purpose; limitations.

A. It is the intent of the General Assembly, in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, to authorize public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. Public bodies, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. Public bodies shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that the public body does not discriminate against faith-based organizations.

E. A faith-based organization contracting with a public body (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and (ii)

shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. Nothing in clause (ii) shall be construed to supercede or otherwise override any other applicable state law.

F. Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for sectarian worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. (§ 2000e-1 et seq.), to employ persons of a particular religion.

H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between a public body and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

The public body shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between a public body and a faith-based organization a notice in bold face type that states: "Neither the public body's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

§ 2.2-4367. Purpose.

The provisions of this article supplement, but shall not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.) and Articles 2 (§ 18.2-438 et seq.) and 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2.

The provisions of this article shall apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

§ 2.2-4368. Definitions. -- As used in this article:

"Immediate family" means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

"Official responsibility" means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

“Pecuniary interest arising from the procurement” means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (§2-2.3100 et seq.).

“Procurement transaction” means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

“Public employee” means any person employed by a public body, including elected officials or appointed members of governing bodies.

§ 2.2-4369. Proscribed Participation by employees in procurement transactions.

Except as may be specifically allowed by subdivisions A 2 and A 3 of § 2.2-3112, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;
2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;
3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

§ 2.2-4370. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the public body unless the employee or former employee provides written notification to the public body, or a public official if designated by the public body, or both, prior to commencement of employment by that bidder, offeror or contractor.

§ 2.2-4371. Prohibition on solicitation or acceptance of gifts; gifts by bidders, offerors, contractor or subcontractors prohibited

- A. No public employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless considera-

tion of substantially equal or greater value is exchanged. The public body may recover the value of anything conveyed in violation of this section.

B. No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

§ 2.2-4372. Kickbacks.

A. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and shall be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

§ 2.2-4373 Participation in bid preparation; limitation on submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of a public body shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement that is not available to the public. However, a public body may permit such person to submit a bid or proposal for that procurement or any portion thereof if the public body determines that the exclusion of the person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the public body.

§ 2.2-4374. Purchase of building materials, etc., from architect or engineer prohibited.

A. No building materials, supplies or equipment for any building or structure constructed by or for a public body shall be sold by or purchased from any person employed as an independent contractor by the public body to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in § 2.2-3101.

B. No building materials, supplies or equipment for any building or structure constructed by or for a public body shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in the building or structure to the independent contractor employed by

the public body to furnish architectural or engineering services in which such person has a personal interest as defined in § 2.2-3101.

C. The provisions of subsections A and B shall not apply in cases of emergency or for transportation-related projects conducted by the Department of Transportation or the Virginia Port Authority.

§2.2-4375. Certification of compliance required; penalty for false statements.

- A. Public bodies may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this article.
- B. Any public employee required to submit a certification as provided in subsection A of this section who knowingly makes a false statement in the certification shall be punished as provided in §2.2-4377.

§2.2-4376. Misrepresentations prohibited

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.

§ 2.2-4377. Penalty for violation.

Any person convicted of a willful violation of any provision of this article shall be guilty of a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

On roll call the vote was:

Yea: (4) Noll, Wiggins, Ashe, Burgett
Nay: (0)

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 5, 6, 7, and 8 respectively.

On roll call the vote was:

Yea: (4) Wiggins, Ashe, Noll, Burgett
Nay: (0)

Thereupon, the following resolutions were adopted:

Item No. 5. COMMENDATION OF YORK COUNTY PERSONNEL: Resolution R01-183.

A RESOLUTION TO COMMEND BATTALION CHIEF CHRISTOPHER W. SADLER AND MR. KENNETH M. ELLIOT FOR SERVICE AS

October 16, 2001

MEMBERS OF THE FEDERAL EMERGENCY MANAGEMENT
AGENCY'S URBAN SEARCH AND RESCUE TEAM - VIRGINIA TASK
FORCE TWO - IN RESPONSE TO THE TERRORIST ATTACK ON
THE UNITED STATES OF AMERICA ON SEPTEMBER 11, 2001

WHEREAS, on Tuesday, September 11, 2001, thousands of people were assaulted, injured, and murdered in a series of strategic terrorist attacks on American soil and in American air space; and

WHEREAS, the Federal Emergency Management Agency Urban Search and Rescue Team - Virginia Task Force Two - deployed the same afternoon to Washington, D.C., to provide emergency assistance and back-up support for local emergency agencies at the Pentagon, headquarters of the United States Department of Defense; and

WHEREAS, the Virginia Task Force Two was assigned the mission of shoring up the building, searching for survivors, and recovering the victims from the attack on the Pentagon; and

WHEREAS, the deployed element of the Federal Emergency Management Agency's Urban Search and Rescue Team - Virginia Task Force Two - was composed of 77 members representing fire and police personnel from the cities of Virginia Beach, Chesapeake, Franklin, Newport News, Norfolk, and Williamsburg, and the counties of James City and York; and the Naval Regional Fire Rescue Hampton Roads, Sewell's Point District, as well as additional city and county employees, civilians, and military personnel including structural engineers, hazardous materials specialists, medical professionals, and dog handlers with their search and rescue canines; and

WHEREAS, York County's Battalion Chief Christopher W. Sadler of the Department of Fire and Life Safety deployed as Safety Officer and Kenneth M. Elliot of Computer Support Services deployed as Technical Information Specialist as members of the Virginia Task Force Two and performed their duties with distinction throughout the long and dangerous mission; and

WHEREAS, the services of Battalion Chief Christopher W. Sadler and Kenneth M. Elliot merit the admiration, respect, and sincere appreciation of all of our citizens;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of October, 2001, that in consideration of their demonstrated personal courage and commitment to saving others, Battalion Chief Christopher W. Sadler and Kenneth M. Elliot, be and hereby are recognized and commended for their service as members of the Federal Emergency Management Agency's Urban Search and Rescue Team - Virginia Task Force Two - and their accomplishments are brought to the attention of all our citizens; and

BE IT FURTHER RESOLVED that the Board of Supervisors extends their recognition and appreciation to all of the members of the Federal Emergency Management Agency's Urban Search and Rescue Team - Virginia Task Force Two.

Item No. 6. PUBLIC SEWER EXTENSION AGREEMENT - BUSCH INDUSTRIAL PARK, PHASE II: Resolution R01-182.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE
COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT
KNOWN AS BUSCH INDUSTRIAL PARK, PHASE II, AND
AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER
EXTENSION AGREEMENT

WHEREAS, Busch Properties, Inc. has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve a commercial development to be known as Busch Industrial Park, Phase II; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$11,250.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of October, 2001, that the Board approves the extension of the County's public sewer system to serve the proposed development, Busch Industrial Park, Phase II, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Busch Properties, Inc. for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 7. APPROPRIATION OF TECHNOLOGY TRUST FUNDS FOR THE CLERK OF THE CIRCUIT COURT: Resolution R01-186.

A RESOLUTION TO APPROPRIATE TECHNOLOGY TRUST FUNDS
FROM THE STATE COMPENSATION BOARD FOR THE CONTINUED
DEVELOPMENT OF A DIGITAL INDEXING AND IMAGING SYSTEM
IN THE CLERK OF CIRCUIT COURT'S OFFICE

WHEREAS, the State Compensation board has notified the County of the availability of technology trust funds, totaling \$48,294, for the continued development of a digital indexing and imaging system in the Clerk of Circuit Court's Office; and

WHEREAS, the additional funding will be used to purchase additional computers for the records room, an additional duplex scanner, and to have previous years land records scanned into the new system;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th of October, 2001, that \$48,294 be, and hereby is, appropriated in the Capital Fund for the continued development of the imaging system for the Clerk of Circuit Court's Office.

October 16, 2001

Item No. 8. TAX REFUND: Resolution R01-184

A RESOLUTION TO AUTHORIZE A TAX REFUND TO COCA COLA ENTERPRISES, INC.

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties and interest in excess of \$2,500.00; and

WHEREAS, Coca Cola Enterprises, Inc. has made a proper request for a tax refund for taxes erroneously paid on personal property which was located outside the County in an area of exclusive federal jurisdiction; and

WHEREAS, the Commissioner of the Revenue, the Treasurer, and the County Attorney have recommended that the request for a tax refund, with interest, be granted in the amount of \$3,608.16;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of October, 2001, that the Commissioner of the Revenue is authorized to refund to Coca Cola Enterprises, Inc. erroneously paid personal property taxes in the amount of \$2,797.60, together with accrued interest in the amount of \$810.56, for a total refund of \$3,608.16.

CLOSED MEETING. At 8:44 p.m. Mr. Wiggins moved that the meeting be convened in Closed Meeting pursuant to Section 2.1-344(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions; Section 2.1-344(a)(3) pertaining to real property used for a public purpose.

On roll call the vote was:

Yea: (4) Ashe, Noll, Wiggins, Burgett
Nay: (0)

Mr. Barnett moved that the meeting also be convened in Closed Meeting pursuant to Section 2.1-344(a)(3) of the Code of Virginia for the purpose of consulting with legal counsel.

On roll call the vote was:

Yea: (4) Ashe, Noll, Wiggins, Burgett
Nay: (0)

Meeting Reconvened. At 9:05 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of October, 2001, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

On roll call the vote was:

Yea: (4) Noll, Wiggins, Ashe, Burgett

Nay: (0)

RECOMMENDATION FOR AN APPOINTMENT TO THE BOARD OF ZONING APPEALS

Mrs. Noll moved the adoption of proposed Resolution R01-180 which reads:

A RESOLUTION TO RECOMMEND THE APPOINTMENT OF AN INDIVIDUAL TO THE YORK COUNTY BOARD OF ZONING/SUBDIVISION APPEALS

WHEREAS, the term of Cynthia I. Barbeau on the York County Board of Zoning/Subdivision Appeals expires on December 31, 2001; and

WHEREAS, Mrs. Barbeau was first appointed to the Board of Zoning/Subdivision Appeals on May 24, 2000, as an alternate member and appointed on August 24, 2000, to fill the unexpired term of Marvin D. Rhodes; and

WHEREAS, Mrs. Barbeau is eligible for reappointment to said Board and has indicated she wishes to serve another term;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 16th day of October, 2001, that Cynthia I. Barbeau be, and she is hereby, recommended for appointment to the York County Board of Zoning/Subdivision Appeals, such term to begin January 1, 2002, and expire December 31, 2006.

On roll call the vote was:

Yea: (4) Wiggins, Ashe, Noll, Burgett

Nay: (0)

October 16, 2001

Meeting Adjourned. At 9:10 p.m. Chairman Burgett declared the meeting adjourned to 6:00 p.m., Tuesday, October 23, 2001, in the East Room, York Hall, for the purpose of conducting a work session.

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors